



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

| | |
|--|-------------------------------|
| Agency name | Virginia Department of Health |
| Virginia Administrative Code (VAC) citation | 12 VAC 5-600 |
| Regulation title | Waterworks Operation Fee |
| Action title | Fee Adjustment |
| Document preparation date | October 7, 2005 |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the intended amendment is to ensure equity by adding a fee to be charged to transient non-community waterworks and to raise the maximum fee that could be charged for community and non-transient non-community waterworks. This action is needed to: 1) remove an exemption and ensure that all public waterworks pay a waterworks fee, and 2) increase the maximum fees allowed. The intent is for all waterworks that benefit from services to pay a fee and to ensure that sufficient operating funds are available for VDH's Office of Drinking Water.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Virginia Code §32.1-171.1 authorized a fee to be charged of waterworks. Also, the 2005 Appropriation Act requires that the fees be adjusted to the level necessary to cover the cost of the Waterworks Technical Assistance Program (Item 316 B).

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The proposed change would add a section to an existing chapter; the proposed new section would charge up to a maximum fee to transient non-community waterworks. The change would also raise the maximum fee presently authorized to be charged to community and non-transient non-community waterworks. The present maximum fee cap authorizes a fee “up to” a fixed amount. The maximum is not being charged presently but the agency has determined the need for more funds from fees as general funds and federal grants have declined and the Drinking Water program needs are not elastic. The 2005 Appropriation Act (Item 316 B requires that the fees be adjusted to the level necessary to cover the cost of the Waterworks Technical Assistance Program.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

No alternatives to the intended action exist. The law authorizing a waterworks fee was passed in 1992. During the consideration of passing that law, VDH represented that it would continually seek general fund increases and federal grants to keep fees as low as possible. VDH has honored this statement; however, the inelastic costs of its operations along with decreased funds from these two other sources require revisiting the fee to ensure that the present level of assistance and service to waterworks continues.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The regulation will not exact a direct impact on the institution of the family and family stability.